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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/784,843

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John T. Hurst

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3829

43914

7590

09/15/2009

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EXAMINER

BLAIR, DOUGLAS B

ART UNIT

PAPER NUMBER

2442

MAIL DATE

DELIVERY MODE

09/15/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/784,843	<b>Applicant(s)</b> HURST ET AL.	
	<b>Examiner</b> DOUGLAS B. BLAIR	<b>Art Unit</b> 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,5,7-9,11-13,17-19,21,23 and 25-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5,7-9,11-13,17-19,21,23 and 25-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Appeal Brief***

In view of the Appeal Brief filed on 2/25/2009, PROSECUTION IS HEREBY REOPENED. A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing at the conclusion of this office action.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1, 5, 9, 11, 12, 15, 19, 25-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the article entitled "An Introduction to the Synchronized Multimedia Integration Language" by Hoschka in view of U.S. Patent Number 6,961,895 to Beran et al.

As to claim 1, Hoschka teaches a method for use in delivering programming content, said method comprising: (a) dividing programming content into smaller chunks of data, wherein said programming content comprises at least one of (i) a software program or (ii) content for playing on an electronic device (Figure 2 shows divided chunks of programming content); (b) creating a chunk file for each chunk of data, said chunk file including said chunk of data (the chunks are clearly filed referenced as URL's in the SMIL file); (c) generating a manifest file that includes information describing how to at least one of execute or play the chunks of data (the SMIL file is the claimed manifest file); and (d) transmitting the chunk files created in step (b) and the manifest file generated in step (c) to a remote location (The introduction of the article explains how SMIL is intended for presentations on the Internet); however, Hoschka does not explicitly teach some files being transmitted electronically and some being transmitted on a physical storage medium.

Beran shows that transmitting SMIL files and their related contents both electronically and via a physical storage medium are obvious variations (col. 6, line 57-col. 7, line 4).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the applicant's invention to combine the teachings of Hoschka regarding the use of SMIL with the teachings of Beran regarding the use of a variety of storage techniques because Beran's invention builds on the teachings outlined in Hoschka so Beran could not function without a combination of the two references.

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As to claim 5, Multiple CD-ROMS like those taught by Beran read on this claim.

As to claim 9, the SMIL file identifies each chunk otherwise the various audio, video and text would not be displayed.

As to claim 25, the Figures in Hoschka show video.

As to claim 26, nothing in Hoschka precludes the use of "full length theater quality motion picture" as being the video. The applicant's disclosure provides not separate considerations how "full length theater quality motion picture" is to be treated any differently than any other multimedia data.

As to claim 11, Hoschka teaches a method for use in receiving programming content, said method comprising: (a) receiving plural chunk files and a manifest file, the chunk files including chunks of data that together make up programming content, the programming content comprising at least one of (i) a software program or (ii) content for playing on an electronic device (the chunk files are part of the URL's referenced in the SMIL file), and the manifest file including information describing how to at least one of execute or play the chunks of data (the SMIL file is the manifest file); (b) storing the chunks of data (the multimedia files are stored at the URL's and they are locally once they are downloaded); and (c) at least one of executing or playing the chunks of data according to the information in the manifest file (See the results of Fig 1); however, Hoschka does not explicitly teach some files being transmitted electronically and some being transmitted on a physical storage medium.

Beran shows that transmitting SMIL files and their related contents both electronically and via a physical storage medium are obvious variations (col. 6, line 57-col. 7, line 4).

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It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the applicant's invention to combine the teachings of Hoschka regarding the use of SMIL with the teachings of Beran regarding the use of a variety of storage techniques because Beran's invention builds on the teachings outlined in Hoschka so Beran could not function without a combination of the two references.

As to claim 12, the files referenced in the SMIL file are clearly separately identifiable.

As to claims 15, 19, and 27-33, they are rejected for the same reasoning as the preceding claims.

Claims 7-8, 17-18, 21, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over the article entitled "An Introduction to the Synchronized Multimedia Integration Language" by Hoschka in view of U.S. Patent Number 6,961,895 to Beran et al. in further view of RFC 1321 by Rivest.

As to claims 7-8, 17-18, 21, and 23 the Hoschka-Beran combination makes obvious the subject matter of claims 1, 10-11 and 20; however the Hoschka-Beran combination does not explicitly teach the use of a message digest.

Rivest teaches the use of a message digest for verifying integrity of data (See executive summary).

It would have been obvious to one of ordinary skill in the Computer Networking art at the time of the invention to combine the teachings of the Hoschka-Beran combination regarding the use of chunk files for transmitting data with the teachings of Rivest regarding the use of a message digest because a message digest is a computer networking standard and thus a well

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known method for verifying the integrity of data received. U.S. Patents 5,765,176, 5,745,574 and 5,692,047 are some examples of publications that illustrate the use of message digests.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS B. BLAIR whose telephone number is (571)272-3893. The examiner can normally be reached on 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Caldwell/  
Supervisory Patent Examiner, Art Unit  
2442

/Douglas B Blair/  
Primary Examiner, Art Unit 2442